

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

June 9, 2006

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No.: 04HD-353

**HAWAII**

**Set Aside to Department of Transportation, Highways Division; Issuance of Construction and Management Right-of-Entry at Kaalaala-Kapapala, Kau, Hawaii. Tax Map Key: 3<sup>rd</sup>/ 9-6-12: portion of 4; 9-6-13: portion of 2; and 9-8-01: portion of 11**

**APPLICANT:**

DEPARTMENT OF TRANSPORTATION, Highways Division

**LEGAL REFERENCE:**

Section 171-11, Hawaii Revised Statutes (HRS), as amended.

**LOCATION:**

Portion of Government lands at Kaalaala-Kapapala, Kau, Hawaii, identified by Tax Map Key: 3<sup>rd</sup>/ 9-6-12: portion of 4; 6-9-13: portion of 2; and 9-8-01: portion of 11, as shown on the attached map labeled Exhibit A.

**DISTRICT/ ZONE/ ENCUMBRANCE/ AREA:**

TAX MAP KEY	DISTRICT	ZONE		ENCUMBRANCE	EASEMENT	
		SLU	CZO		DESCRIPTION	AREA(sf)
3 <sup>rd</sup> / 9-6-12: por. 04	Kaalaala	Ag	A-20A	Vacant	Drainage Esmt-3	117,664
9-6-13: por. 02	Kaalaala	Ag	A-20A	Vacant	Drainage Esmt-1	38,913
					Slope Esmt-1	3,750
9-8-01: por. 11	Kapapala	Ag	Ag	Vacant	Drainage Esmt-2	14,014

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

TMK: (3) 9-6-12: por. 04 - YES

TMK: (3) 9-6-13: por. 02 - NO

TMK: (3) 9-8-01: por. 11 - YES

CURRENT USE STATUS:

Vacant and unencumbered.

PURPOSE:

Highways, Ford Crossings, Stream Channelization and Drainage Easement purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This action is exempt from the provisions of Chapter 343, Hawai'i Revised Statutes, under Section 11-200-8, Item 2, Hawaii Administrative Rules. The 404 Permit Application, Environmental Questionnaires and Preliminary Site plans indicated that the projects would not have significant direct impacts on the environment, primarily due to the intermittent nature of the streams.

The State of Hawai'i, Department of Transportation, received concurrences from the Office of Environmental Quality Control, U.S. Fish and Wildlife Service, and the Federal Highway Administration, that the subject site is designated as Categorical Exclusion and therefore exempt from the Environmental Impact documentation requirements. This is in accordance with the National Environmental Policy Act process, set forth in 23 CFR part 771.115(b) "Classes of Actions" and 23 CFR Part 771.115(d) "Categorical Exclusions."

APPLICANT REQUIREMENTS:

Applicant shall be required to:

1. Process and obtain subdivision at Applicant's own cost;
2. Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;

REMARKS:

The State of Hawai'i, Department of Transportation, Highways Division (DOT), proposed construction of drainage improvements, stream channelization, and ford

crossings, vicinity of Piikea Stream and Paauau Stream Bridge in Pahala, Kau. The project [Federal Aid Project No. STP-011-2 (31)] consisted of nine (9) 10'x10' box culvert system and stream channelization, upstream and downstream of the Mamalahoa Highway.

At its meeting of February 11, 2000, Item D-7, the Board approved Grant of Two Perpetual, Non-Exclusive Easements and Construction Right-of-Entry to DOT for flood drainage improvement purposes.

By memorandum dated May 24, 2001, DOT informed that the easements previously granted, is no longer necessary. Due to extraordinary conditions caused by the storm of November 2000, drastic changes in the existing roadway conditions required the implementation of emergency road projects with expanded scope of design and construction. Because of the emergency requirements, Project No. STP-001-2(31) was officially cancelled on January 30, 2001 and superseded by Federal Aid Project No. ER-12(2), Mamalahoa Highway, Emergency Replacement of Ford Crossing at Mile Post 49, Pahala, Kau, Hawaii. The new emergency project, require that the drainage easement rights, namely, Drainage Easement(s) 1, 2, 3, and Slope Easement 1, be conveyed by DLNR to DOT.

At its meeting of September 26, 2003, Item D-10, the Board rescinded its prior actions of February 11, 2000, Agenda Item D-7.

DOT forwarded the revised metes and bound descriptions of the expanded design for the emergency drainage easements, which reflect the change in easement dimension and area. Construction of the easements have been implemented and the emergency project is complete. DOT has now requested a set aside of the subject four easements.

DOT's proposed use of a portion the subject State property is appropriate as this section of the Mamalahoa Highway is prone to serious/ hazardous flood conditions. The areas being set aside will include improvements, which consist of the ford crossings, stream channelization, and drainage easements as constructed. There are no higher or better uses as these are lands contained within a hazardous flood prone streambed over bare lava.

#### RECOMMENDATION:

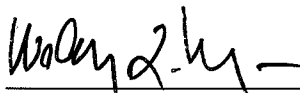
That the Board, subject to Applicant fulfilling the Applicant Requirements above:

1. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to the Department of Transportation (DOT), Highways Division, under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
  - A. The standard terms and conditions of the most current executive order

form, as may be amended from time to time;

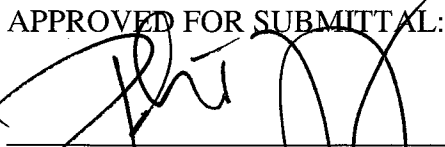
- B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
  - C. Review and approval by the Department of the Attorney General; and
  - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Grant an immediate construction and management right-of-entry to the DOT, its consultants, contractors and/or persons acting for or on its behalf, under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
- A. The standard terms and conditions of the most current right-of-entry form as may be amended from time to time;
  - B. This construction and management right-of-entry is effective upon Land Board approval and shall continue until the executive order document is issued;
  - C. The Department of Land and Natural Resources reserves the right to impose additional terms and conditions at any time if it deems necessary while this right-of-entry is in force.

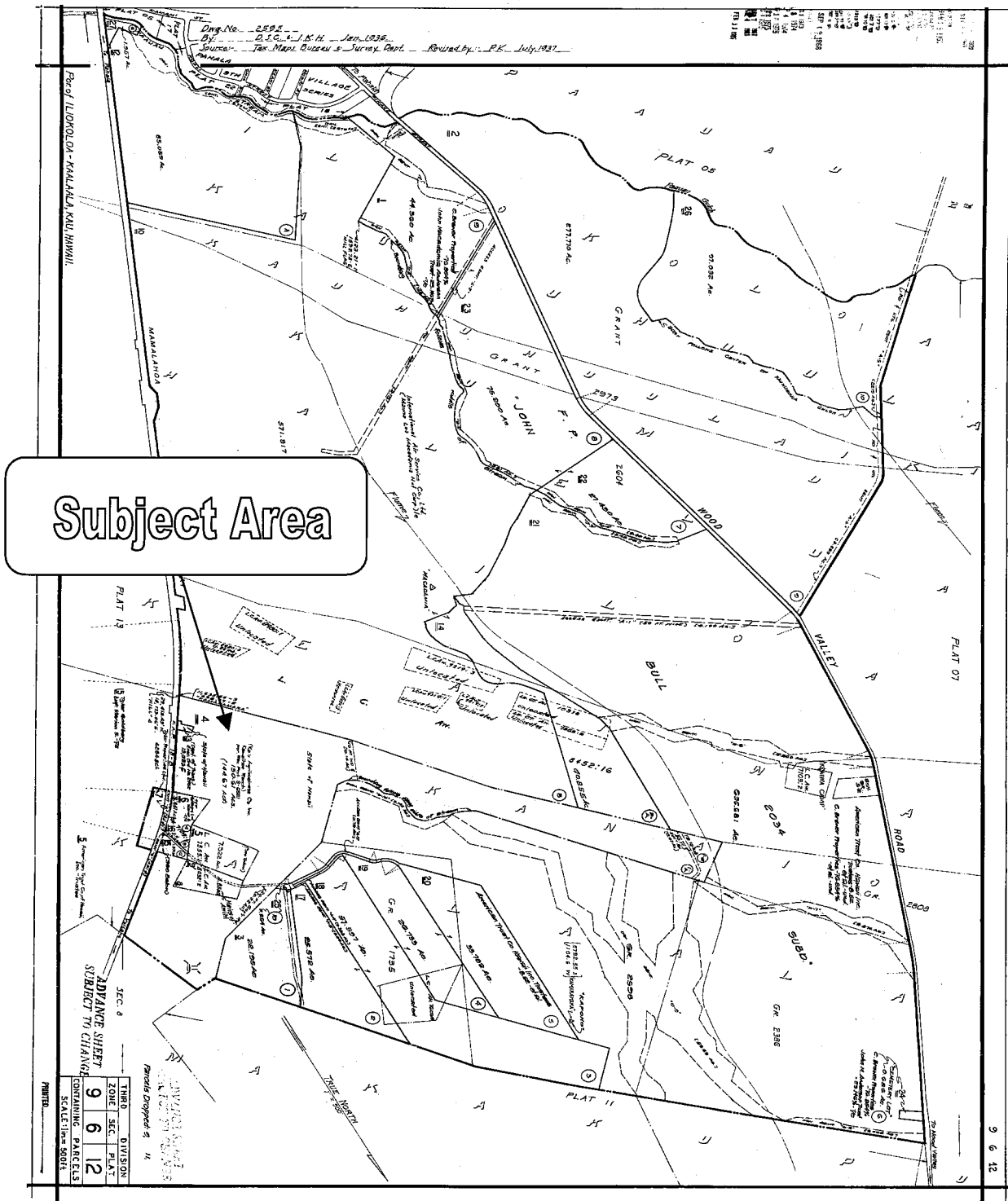
Respectfully Submitted,



Wesley T. Matsunaga  
Land Agent

APPROVED FOR SUBMITTAL:

  
Peter T. Young, Chairperson



# EXHIBIT A

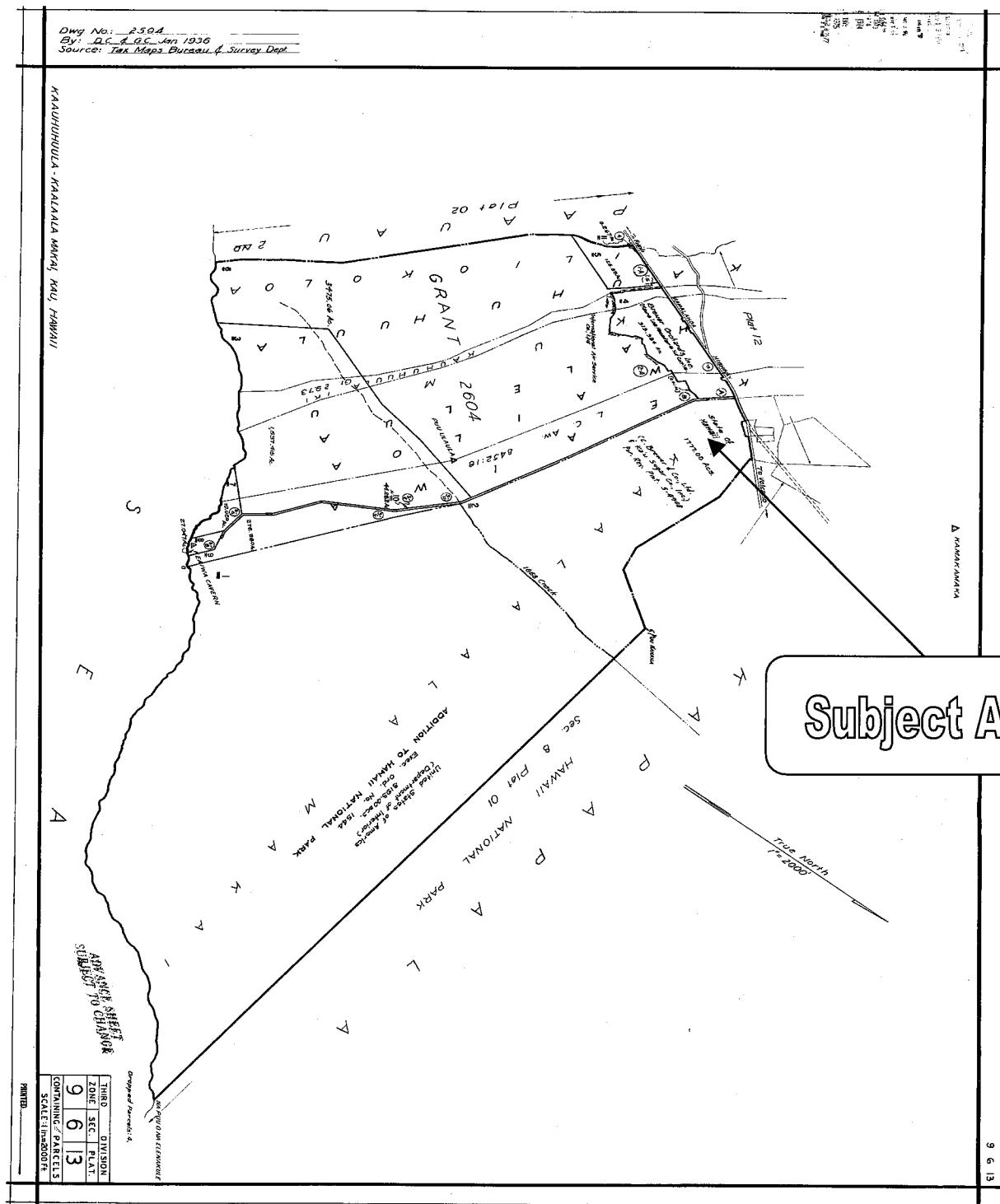
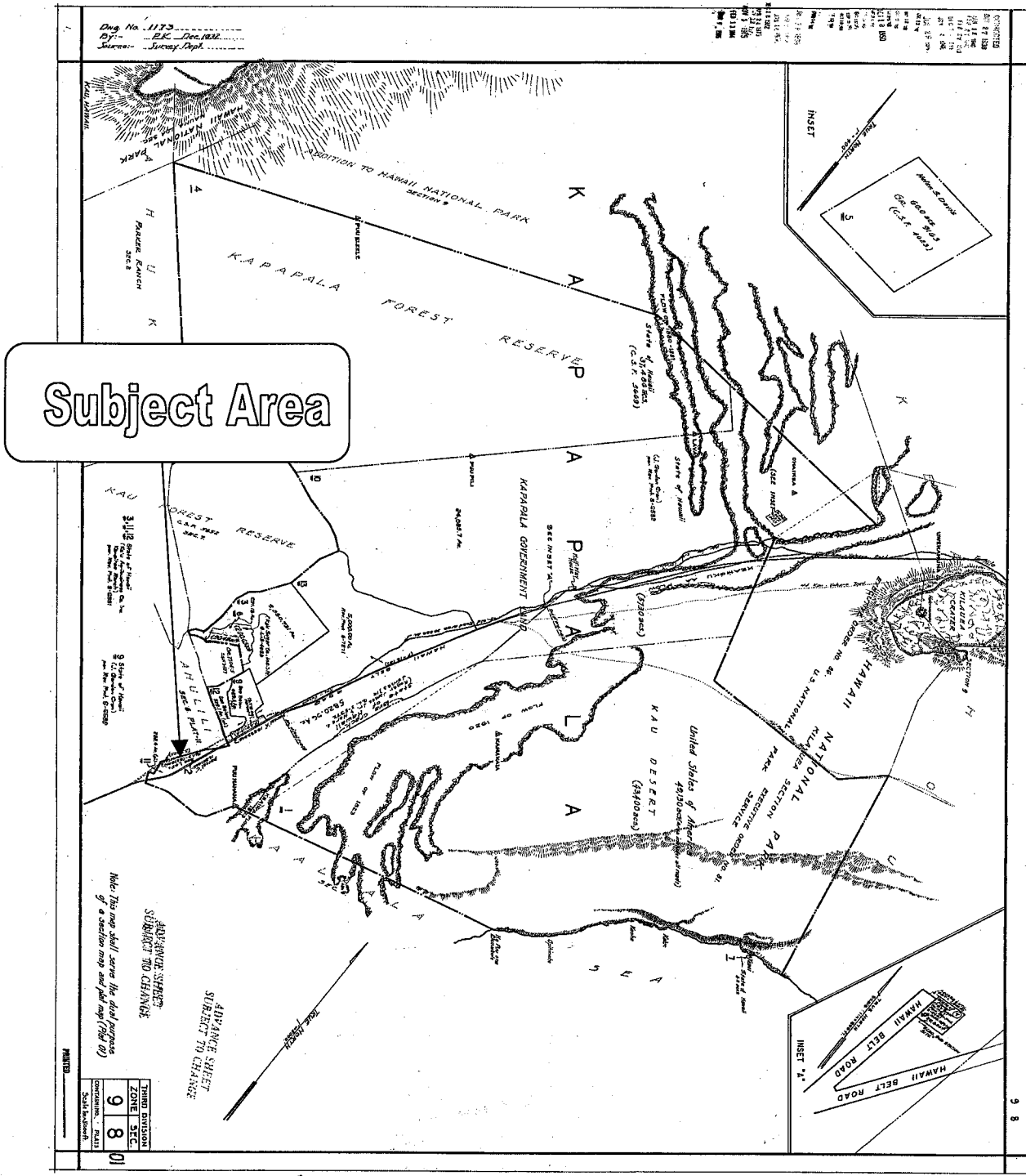
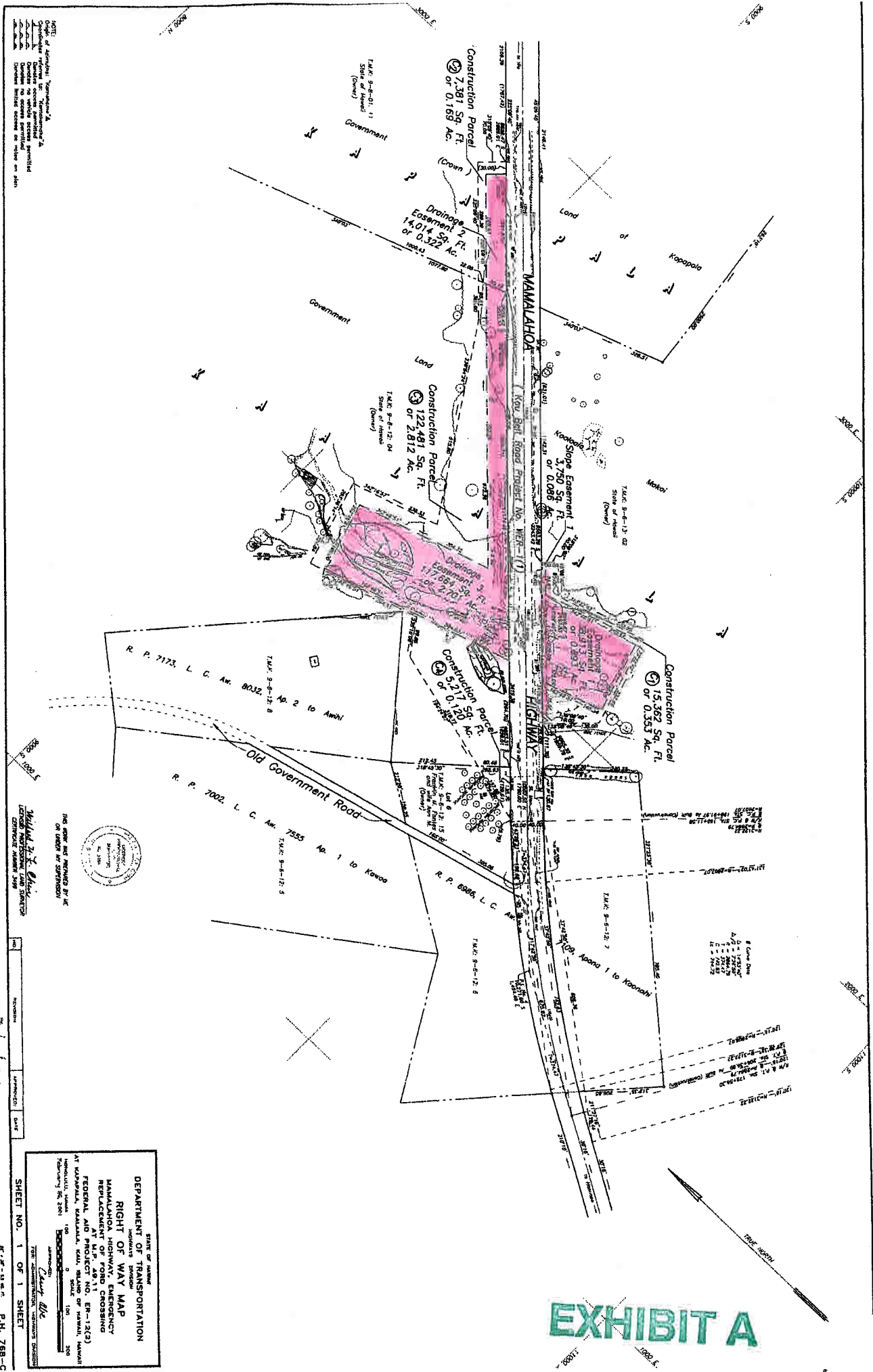


EXHIBIT A



**EXHIBIT A**



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STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
RIGHT OF WAY MAP  
MAMALAOHUA HIGHWAY  
REPLACEMENT OF FORD CROSSING  
AT U.S. 49.11  
FEDERAL AID PROJECT NO. ER-12(2)  
AT KAPAEHA, KAUAI, TERRITORY OF HAWAII  
SHEET NO. 1 OF 1 SHEET  
DATE: 1970  
BY: [Signature]  
FOR THE DEPARTMENT OF TRANSPORTATION